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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1H 2008 370

MARY MARGARET CHAMBERS
247 La Mesa Drive
Salinas, CA 93901

A C C U S A T I O N

Respiratory Care Practitioner License No. 15196

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about May 14, 1992, the Respiratory Care Board issued Respiratory Care Practitioner License Number 15196 to Mary Margaret Chambers (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3710 of the Code states: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

6. Section 3750 of the Code states:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.”

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).”

7. Section 3752 of the Code states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of any offense which substantially relates to the qualifications, functions, or duties of a respiratory care practitioner is deemed to be a conviction within the meaning of this article. The board shall order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made

1 suspending the imposition of sentence, irrespective of a subsequent order under Section
2 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
3 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
4 accusation, information, or indictment.”

5 8. Section 3752.5 of the Code states:

6 “For purposes of Division 1.5 (commencing with Section 475), and this chapter
7 [the Respiratory Care Practice Act], a crime involving bodily injury or attempted bodily
8 injury shall be considered a crime substantially related to the qualifications, functions, or
9 duties of a respiratory care practitioner.”

10 9. California Code of Regulations, title 16, section 1399.370, states:

11 “For the purposes of denial, suspension, or revocation of a license, a crime or act
12 shall be considered to be substantially related to the qualifications, functions or duties of
13 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
14 perform the functions authorized by his or her license or in a manner inconsistent with the
15 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
16 those involving the following:

17 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
18 abetting the violation of or conspiring to violate any provision or term of the Act.”

19 COST RECOVERY

20 10. Section 3753.5, subdivision (a) of the Code states:

21 "In any order issued in resolution of a disciplinary proceeding before the board,
22 the board or the administrative law judge may direct any practitioner or applicant found to have
23 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
24 investigation and prosecution of the case."

25 11. Section 3753.7 of the Code states:

26 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
27 include attorney general or other prosecuting attorney fees, expert witness fees, and other
28 administrative, filing, and service fees."

1 12. Section 3753.1 of the Code states:

2 "(a) An administrative disciplinary decision imposing terms of probation may
3 include, among other things, a requirement that the licensee-probationer pay the monetary costs
4 associated with monitoring the probation. "

5 FIRST CAUSE FOR DISCIPLINE

6 (Substantially-Related Conviction)

7 13. Respondent is subject to disciplinary action under code sections 3750(d),
8 3750(g), 3752 , 3752.5 and CCR 1399.370(a) in that she was convicted of a violation of Penal
9 Code section 243(E) [battery on a spouse or cohabitant], which is substantially related to the
10 practice of respiratory care. The circumstances are as follows:

11 14. On or about May 21, 2007, at 1:30 a.m., Officer Ruben Sanchez of the
12 Salinas Police Department investigated a report of a domestic disturbance at respondent's
13 address, due to a 911 phone call from a male individual. As Officer Sanchez approached the
14 front door, he could hear a female yelling within the residence. He knocked on the front door but
15 no one answered and the yelling continued. A male, later identified as the victim, answered the
16 front door. His nose was bleeding and he also had blood on his right hand and right arm. It
17 appeared that the blood on his hand and arm was from wiping the injury from his nose. He
18 refused medical attention.

19 15. Officer Sanchez contacted the female in the house, later identified as
20 Respondent. She was standing in the door of the bathroom, and he could smell an odor of
21 alcohol on her person. Due to her intoxication, she was unable to provide the officer with an
22 account of what had occurred. She admitted that she had "too much to drink." The victim was
23 interviewed, and he stated that he and the Respondent had been living together about nine
24 months. That night, he went to bed and Respondent began arguing with him. She punched him
25 with her fists on his shoulders and chest area. He believed that she had been drinking alcohol in
26 the bathroom because in the past, she had hidden alcohol in that room. Officer Sanchez searched
27 the bathroom and located a bottle of wine in the closet area.

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16. Officer Sanchez advised Respondent that she was under arrest for violating Penal Code section 273.5(a), domestic violence. She was belligerent and started to yell profanities. He advised her of her Miranda rights and she did not waive her rights. During the booking process at the jail, Respondent continued to be belligerent and uncooperative. The booking officers had to control her from moving freely.

17. On or about May 24, 2007, a misdemeanor criminal complaint titled *People of the State of California vs. Mary Margaret Chambers*, case no. MS255718A was filed in Superior Court, Monterey County, Salinas Division. Count 1 charged Respondent with a violation of Penal Code section 273.5(A), inflicting corporal injury on a spouse or cohabitant. Count 2 charged Respondent with a violation of Penal Code section 243(E), battery on a spouse, cohabitant or former spouse.

18. On or about September 26, 2007, Respondent entered a plea of nolo contendere to Count 2, Penal Code section 243(E), battery on a spouse or cohabitant. Upon stipulation of counsel, the Court found a factual basis for the plea. Count 1 was dismissed. Imposition of sentence was suspended, and Respondent was placed on conditional probation for three years. She was ordered not to use or possess alcohol or narcotics without a medical prescription, totally abstain from alcohol, attend and complete a one year domestic violence counseling program of 52 weeks or longer, and pay fines. She was ordered to serve one day in jail and given credit for one day served.

19. Therefore, respondent's license is subject to discipline in that her conviction of violating Penal Code 243(E), battery on a spouse or cohabitant, is a substantially-related conviction within the meaning of Business and Professions code sections 3750(d), 3752 and 3752.5.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking or suspending Respiratory Care Practitioner License Number 15196, issued to Mary Margaret Chambers.

2. Ordering Mary Margaret Chambers to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;

3. Taking such other and further action as deemed necessary and proper.

DATED: April 16, 2009

Original signed by Colleen Whitestone for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant

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